

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA, *
Plaintiff CRIMINAL:
*
vs. * 16-781 JAG
CARLO JOEL HERNANDEZ-ALICEA,
Defendant *

* * * * *

SENTENCING MEMORANDUM

TO THE HONORABLE COURT:

COMES Now defendant Hernandez-Alicea, through the undersigned attorney and respectfully states, alleges, informs and prays as follows:

18 USC § 3553(a) directs the Honorable Court to consider the nature and circumstances of the offense and the history and characteristics of the defendant when imposing sentence. The sentence imposed is to reflect the seriousness of the offense, to promote respect for the law and provide just punishment for the offense.

Nature and Circumstances of the Offense

On July 14, 2017, Mr. Hernandez entered into a plea agreement with the government and pled guilty to Count One of the indictment in Cr. No. 16-781 JAG, which states that the defendant knowingly and intentionally possessed five (5) kilograms or more of cocaine, in violation of 21 USC Sec. 841(a)(1).

The plea agreement provides that Mr. Hernandez accept responsibility for at least 3.5 but less than 5 kilos of cocaine (USSG BOL 28). Although, after a 3 level reduction for acceptance

of responsibility, the defendant's sentencing range is 46-57 months with a Criminal History Category I,.

History and Characteristics of the Defendant

Mr. Hernandez's painful hardships can be clearly seen since the very beginning of his life. His mother was unable to care for him. When he was but a toddler, through a mutually arranged agreement, he was placed under the care of his paternal grandmother, Ms. Felicita Cintron Santana, with whom he has lived since he was three years old. Mr. Hernandez and his grandmother have lived alone, at the Llorens Torres Public housing complex. His grandmother reared him singlehandedly.

Mr. Hernandez's father was killed in a fight when the defendant was 2 years old. His mother had controlled substance problems and at the age of approximately 32 years old, on Christmas Eve in 2012, was killed by her ex-companion, from whom she had recently separated.

Ms. Cintron describes her grandson as a kind hearted, helpful, good and humble human being. He was a good child who helped her. He finished high school, all the while working and helping her with house chores, expenses and other day to day exigencies as they would occur.

Factors the Court May Consider in Imposing a Sentence Not Greater than Necessary

82. . . The Court may exercise its discretion by considering a sentence under a variance, pursuant to the provisions of Title 18, U.S.C. §3553(a) . . .

Mr. Hernandez is keenly aware that he violated his conditions of release, Mr. Hernandez's bail was revoked because of an incident involving his current companion, Ms. Jenifer Poueriet Castillo, which involved an argument that evolved into a fight. Mr. Hernandez deeply regrets what happened. He wishes to point out, however, that aggression was initiated by his partner, and that he was struck with a bat which he partially deflected with his arm. It was not until he was hit with the bat that he responded with force with the sole purpose of taking the bat away from his partner. After he took the bat away from his partner and started to walk away, he was then hit over the head with the bat that his companion had picked up (a more detailed description was provided in mmHernandez's objections to the Amended PSR, DN-95, filed on May 23, 2018).

It must also be noted that prior to his arrest in this case he had never before been arrested.

After his arrest in this case, he immediately accepted his responsibility. In addition, Mr. Hernandez while on bail was working. Also, it must also be noted that before and after, up to the present day, Mr. Hernandez has always had and continues to have complete and unwavering support from his grandmother and other members of his family, who care for him very much.

WHEREFORE, Mr. Hernandez very respectfully prays that the Honorable Court Consider the contents of this sentencing memorandum in its mission to impose a sentence not greater than

necessary which reflects the seriousness of the offense, promotes respect for the law, and provides just punishment.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, the undersigned electronically filed the foregoing with the clerk of the court using the CM/ECF system which will send notification of this motion to the attorneys of record.

RESPECTFULLY SUBMITTED.

In Bayamon, Puerto Rico, this 2nd day of June, 2018.

s/Raymond Rivera

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